Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
518-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

SERGIO VIROSLAV MD
400 CONCORD PLAZA DRIVE SUITE 300
SAN ANTONIO TX 78216

Respondent Name

LIBERTY INSURANCE CORP

Carrier's Austin Representative Box

Box Number 01

MFDR Tracking Number

M4-11-0891-01

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Procedure code 29823-59 was denied as not documented on the operative report. In reviewing the operative report this procedure code is well documented which I have highlighted in yellow for your review. So at this time we are requesting procedure code 29823-59 be reprocessed and payment be made." "Procedure code 29824-51 was denied as exceeds the scheduled allowance for multiple procedures. In reviewing the operative report and the Medicare's Correct Coding Initiative (CCI) this procedure code should have been with modifier 59 to differentiate between the services provided which I have highlighted in pink for your review. So at this time we are requesting procedure code 29824-59 be reprocessed and payment be made. "

Amount in Dispute: $6153.47

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Denied CPT 29824-SG RT as Documentation does not support level of service billed. (X901). April 2004 AAOS Bulletin: Excision of the distal clavicle: This means excision of the entire distal clavicle (approximately 1 cm), not merely shaving off osteophytes at the acromioclavicular joint. The code the open procedure is 23120; use 29824 for an arthroscopic procedure. Provider documented only 5 mm excised." "Denied 29823 59 SG RT as this code billed does not meet the level/description of the procedure performed/documented. Consideration will be given with coding that reflects the documented procedure. (X263). Provider did limited debridement. Debridement of rotator cuff is included in repair and the modifier 59 designation as a separate and distinct procedure is not supported."

Response Submitted by: Liberty Mutual Insurance Group, 2875 Browns Bridge Road, Gainesville, GA 30504

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
May 28, 2010	CPT Code 29824-59	$2834.55	$0.00
	CPT Code 29823-59	$3318.92	$279.64
TOTAL		$6153.47	$279.64

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.203, titled *Medical Fee Guideline for Professional Services*, set out the fee guideline s for the reimbursement of workers' compensation professional medical services provided on or after March 1, 2008.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

   Explanation of benefits dated July 2, 2010
   - X263-The code billed does not meet the level/description of the procedure performed/documented. Consideration will be given with coding that reflects the documented procedure.
   - Z605-The charge exceeds the scheduled allowance for multiple procedures.
   - X901-Documentation does not support level of service billed.
   - 42-Charges exceed our fee schedule or maximum allowable amount.
   - 150-Payment adjusted because the payer deems the information submitted does not support this level of service.

   Explanation of benefits dated August 26, 2010
   - X263-The code billed does not meet the level/description of the procedure performed/documented. Consideration will be given with coding that reflects the documented procedure.
   - Z605-The charge exceeds the scheduled allowance for multiple procedures.
   - X901-Documentation does not support level of service billed.
   - 42-Charges exceed our fee schedule or maximum allowable amount.
   - 150-Payment adjusted because the payer deems the information submitted does not support this level of service.

   Explanation of benefits dated October 25, 2010
   - X263-The code billed does not meet the level/description of the procedure performed/documented. Consideration will be given with coding that reflects the documented procedure.
   - Z605-The charge exceeds the scheduled allowance for multiple procedures.
   - X901-Documentation does not support level of service billed.
   - 42-Charges exceed our fee schedule or maximum allowable amount.
   - 150-Payment adjusted because the payer deems the information submitted does not support this level of service.

Issues

1. Did the requestor's documentation support billing of CPT code 29824-59? Is the requestor entitled to reimbursement?
2. Did the requestor's documentation support billing of CPT code 29823-59? Is the requestor entitled to reimbursement?

Findings

1. 28 Texas Administrative Code §134.203(b)(1), states "(b) For coding, billing, reporting, and reimbursement of

professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules."

CPT code 29824-59 is defined as "Arthroscopy, shoulder, surgical; distal claviculectomy including distal articular surface (Mumford procedure)." A review of the operative report indicates "The distal clavicle came into view. The inferior half of the clavicle was debrided. The direct portal was made, and the clavicle was taken back approximately 5 mm."

The respondent states in the position summary that "April 2004 AAOS Bulletin: Excision of the distal clavicle: This means excision of the entire distal clavicle (approximately 1 cm), not merely shaving off osteophytes at the acromioclavicular joint."

The Division finds that the requestor's documentation did not support billing of CPT code 29824; therefore, reimbursement cannot be recommended.

2. CPT code 29823-59 is defined as "Arthroscopy, shoulder, surgical; debridement, extensive." A review of the operative report indicates "Through the anterior portal, the labrum was debrided…it was debrided with the shaver and then touched up with the ArthroCare."

   The respondent states in the position summary that "Provider did limited debridement. Debridement of rotator cuff is included in repair and the modifier 59 designation as a separate and distinct procedure is not supported."

   The requestor used modifier 59-Distinct Procedural Service to differentiate CPT code 29823 from the other services billed. "Modifier 59 is used to identify procedures/services, other than E/M services, that are not normally reported together, but are appropriate under the circumstances. Documentation must support a different session, different procedure or surgery, different site or organ system, separate incision/excision, separate lesion, or separate injury (or area of injury in extensive injuries) not ordinarily encountered or performed on the same day by the same individual."

   The Division finds that the operative report supports surgical procedures to two regions of the shoulder, the glenohumeral joint and the subacromial bursal space. The requestor documented the separate incision for debridement of the anterior labrum; therefore, reimbursement is recommended.

   Per 28 Texas Administrative Code §134.203(c)(1)(2), "To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications.
   (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is $52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is $66.32.

   (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year. The following hypothetical example illustrates this annual adjustment activity if the Division had been using this MEI annual percentage adjustment: The 2006 Division conversion factor of $50.83 (with the exception of surgery) would have been multiplied by the 2007 MEI annual percentage increase of 2.1 percent, resulting in the $51.90 (with the exception of surgery) Division conversion factor in 2007."

   Review of Box 32 on the CMS-1500 the services were rendered in zip code 78216, which is located in Bexar County.

   Review of Box 24B on the CMS-1500 indicates that the place of service was 24-Ambulatory Surgical Care Center.

   The requestor billed CPT codes 29827, 29824, 29826 and 29823. These codes are in the same endoscopic family. Per Medicare Policy "When two or more endoscopies are billed that are both in the same endoscopic family, Medicare prices the highest allowed procedure at 100 percent of the fee amount. The other procedures are priced by subtracting the fee amount of the basic endoscopy from their fee amounts."

   Review of the explanation of benefits finds that the respondent paid CPT code 29827 at 100%; therefore, code 29823 is priced by subtracting the fee amount of the basic endoscopy from its fee amount.

Code	Base Fee Amount	Formula	Medicare Fee Amount
29805	$439.17		
29823	$590.38	$590.38 - $439.17	$151.21

The DWC MAR is found by taking the DWC Conversion factor of 68.19 divided by the Medicare Conversion factor of 36.8729, then multiplying by the fee amount of $151.21 = $279.64. The respondent paid $0.00; therefore, the requestor is due $279.64.

Conclusion

The Division would like to emphasize that individual medical fee dispute outcomes rely upon the evidence presented by the requestor and respondent during dispute resolution, and the thorough review and consideration of that evidence. After thorough review and consideration of all the evidence presented by the parties to this dispute, it is determined that the submitted documentation supports additional reimbursement sought by the requestor for code 29823-59. The Division concludes that the requestor supported its position that reimbursement is due. As a result, the amount ordered is $279.64.

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ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $279.64 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature	Medical Fee Dispute Resolution Officer	3/22/2012 Date

YOUR RIGHT TO REQUEST AN APPEAL

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.